THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.5370 OF 2006

DATED: 31-03-2006

BETWEEN

Grandhi Prabhaker Rao,

S/o. Grandhi Subba Rao,

R/o. H.No.11/823/4,

Amaravathi Road, Nagaralu,

Pattabhisitaram Nagar,

Guntur Town,

Guntur District

and others.

...PETITIONERS

AND

The Commissioner,

Guntur Municipal Corporation,

Guntur District.

...RESPONDENT

ORDER:

Petitioners seek a Writ of Mandamus to direct the respondent not to demolish the cellar portion of the commercial complex bearing Assessment No.9275, D.No.5-38-54/A situated at 5th Lane, Bradipet, Guntur Town and Guntur District.

Learned counsel for the petitioners submits that the petitioners have purchased premises bearing No.5-38-54 and 55 situated at

5th Lane, Bradipet, Guntur Town, Guntur District along with a site admeasuring 232 sq. yards vide three registered sale deeds dated 15.03.1995 vide Document Nos.2598 and 2599 and after removing the old structures, the petitioners obtained permission for construction of cellar, ground floor and two upper floors of commercial complex from the respondent vide permit No.B.A.714/97-G2 dated 05.02.1997.

He further submits that while constructing the complex, 3/4th of the cellar portion was left for parking which is more than sufficient for the building. While so the respondent issued a notice dated 03.02.2006

to the petitioners informing them to be present in his office on 04.02.2006 to enquire about the utilization of cellar portion in the commercial premises.

Learned counsel further submits that the petitioners have not violated any of the terms and conditions of the sanction plan and permit but under the guise of the said notice the respondent are taking steps to demolish the cellar portion.

I am not inclined to express any opinion as to whether the entire cellar is meant for parking and as to whether the petitioners have mis-utilized the parking area in the cellar contrary to the sanction plan and permit. However, having regard to the facts and circumstances of the case, the respondent is directed to issue a notice, specifying the deviations/violations and unauthorized usage of the constructed area of the building and parking area; calling upon the petitioners to file an explanation and after receiving and considering such explanation, appropriate action shall be taken in accordance with law.

The writ petition is accordingly disposed of.

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V. ESWARAIAH, J

March 31, 2006

DSK